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6 IN THE UNITED STATES DISTRICT COURT
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8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 ORGANIZATION FOR THE
10 ADVANCEMENT OF MINORITIES WITH
11 DISABILITIES, et al.,

No. C 04-03368 JSW

11 Plaintiffs,

12 v.

13 PACIFIC HEIGHTS INN-SAN FRANCISCO,
14 et al.,

14 Defendants.

**ORDER (1) ADOPTING REPORT
AND RECOMMENDATION RE
PLAINTIFFS' MOTION FOR
DEFAULT JUDGMENT AND (2)
DIRECTING PLAINTIFFS TO
SERVE OR DISMISS
REMAINING DEFENDANTS**

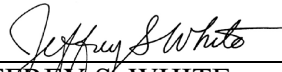
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17 The Court has reviewed Magistrate Judge Elizabeth D. LaPorte's Report and
18 Recommendation re Plaintiff's Motion for Default Judgment. The Court finds the Report
19 correct, well-reasoned and thorough, and adopts it in every respect. Accordingly, default
20 judgment is GRANTED as to Defendant Pacific Heights Inn - San Francisco, but is DENIED as
21 to Defendants Ladrech Family Limited Partnership, Gene Ladrech and Hcerdal, Inc. because
22 Plaintiffs have not made any showing that they served these defendants. Plaintiffs are HEREBY
23 AWARDED \$4,000.00 in statutory damages under Civil Code § 52(a), \$12,375.00 in attorney's
24 fees, and \$1,327.00 in costs.

25 Federal Rule of Civil Procedure 4(m) ("Rule 4(m)") provides that "[i]f service of the
26 summons and complaint is not made upon a defendant within 120 days after filing the
27 complaint, the court, upon motion or its own initiative after notice to the plaintiff, shall dismiss
28 the action without prejudice as to that defendant or direct that service be effected within a

1 specified time.” The complaint was filed on August 17, 2004, and thus, the time to serve
2 Defendants Ladrech Family Limited Partnership, Gene Ladrech and Hcerdal, Inc. expired over a
3 year ago. Plaintiffs are hereby notified that if they do not demonstrate good cause for the delay
4 in service by no later than March 24, 2006, the Court will dismiss this action against
5 Defendants Ladrech Family Limited Partnership, Gene Ladrech and Hcerdal, Inc. without
6 prejudice.

7 **IT IS SO ORDERED.**

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9 Dated: February 27, 2006


10 JEFFREY S. WHITE
11 UNITED STATES DISTRICT JUDGE
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United States District Court

For the Northern District of California